

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



FILED
9-15-16
04:59 PM

Application of Pacific Gas and Electric
Company for Approval of the Retirement of
Diablo Canyon Power Plant, Implementation of
the Joint Proposal, And Recovery of Associated
Costs Through Proposed Ratemaking
Mechanisms (U39E)

Application 16-08-006
(Filed August 11, 2016)

PROTEST OF SOLARCITY CORPORATION

Vidhya Prabhakaran
Emily P. Sangi
Davis Wright Tremaine LLP
505 Montgomery Street, Suite 800
San Francisco, CA 94111-6533
Tel. (415) 276-6500
Fax. (415) 276-6599
Email: vidhyaprabhakaran@dwt.com
Email: emilysangi@dwt.com

Attorneys for SolarCity Corporation

September 15, 2016

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric
Company for Approval of the Retirement of
Diablo Canyon Power Plant, Implementation of
the Joint Proposal, And Recovery of Associated
Costs Through Proposed Ratemaking
Mechanisms (U39E)

Application 16-08-006
(Filed August 11, 2016)

PROTEST OF SOLARCITY COPORATION

Pursuant to Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), SolarCity Corporation (SolarCity) protests the application of Pacific Gas and Electric Company (PG&E) for approval of the retirement of Diablo Canyon Power Plant (Diablo Canyon), implementation of the Joint Proposal, and recovery of associated costs through proposed ratemaking mechanisms (Application).

SolarCity applauds and supports the Joint Proposal to close Diablo Canyon. SolarCity also does not oppose the Joint Proposal's employee retention program or the proposed community impacts mitigation. As a nuclear power plant, Diablo Canyon poses potential significant safety risks, causes damage to marine life, and creates problems associated with spent fuel storage. PG&E's determination that Diablo Canyon is no longer needed is a testament to the success of California's forward-looking alternative energy programs.

However, as described further below, SolarCity protests PG&E's proposed resource procurement plan to replace Diablo Canyon in the Application because PG&E:

- 1) inappropriately supersedes the outcome of the Integrated Resource Planning (IRP) process;
- 2) fails to show its proposed procurement is the optimal solution to meet the need; and
- 3) proposes an unproven energy efficiency program.

I. SOLARCITY AND ITS INTEREST IN THIS PROCEEDING

SolarCity is California's leading full service solar power provider for homeowners and businesses – a single source for engineering, design, installation, monitoring, and support. At present, the company has approximately 5,000 California employees based at more than 40 facilities around the state and has installed solar energy systems for over 285,000 customers nationwide as of June 30, 2016. In addition to solar photovoltaic systems, SolarCity offers retail customers a suite of energy services, including battery storage, smart thermostats, and intelligently-controlled electric water heaters capable of providing demand response and load-shifting.

SolarCity seeks to reduce carbon emissions and environmental impacts through deployment of zero-carbon distributed energy resources (DERs). Accordingly, SolarCity has a strong interest in the Commission's long-term resource planning proceedings, including utility procurement applications like this one, that significantly impact the available market for carbon emission-reducing and environmental impact-limiting energy resources.

II. PG&E'S PROCUREMENT PLAN INAPPROPRIATELY SUPERSEDES THE IRP PROCESS

By proposing a portfolio of resources outside of the IRP proceeding, PG&E is executing an "end run" around the process Commission staff have been working to establish. All of the Diablo Canyon replacement capacity should be determined through the IRP process to determine the least-cost portfolio of resources to meet the State's goals, including renewables integration. Furthermore, procurement of these resources through the ongoing IRP process would begin at almost the exact same time as what PG&E proposes in this Application, so there is no need for PG&E to seek to supersede the IRP process.

Senate Bill (SB) 350 requires the Commission to “identify a diverse and balanced portfolio of resources needed to ensure a reliable electricity supply that provides optimal integration of renewable [resources] in a cost-effective manner.”¹ To fulfill this mandate, the Commission opened the IRP proceeding (Rulemaking (R.) 16-02-007) to determine the process for developing, submitting, and approving IRPs. The Commission describes the IRP process as “an analysis leading to an optimized portfolio of resources to serve an LSE’s load that is constrained by certain factors.”²

To ascertain an “optimized portfolio of resources,” the Commission is creating an analytical process that will determine the best suite of resources to meet the need identified, rather than simply choosing resources arbitrarily.³ Thus, in order to comply with SB 350 and the Commission’s own obligation to ensure just and reasonable rates, the Commission must ensure that the portfolio of resources PG&E proposes is (i) “diverse and balanced,” (ii) “needed to ensure a reliable electricity supply,” (iii) “provides optimal integration of renewable [resources],”⁴ and (iv) provides the best possible value to ratepayers in terms of costs, benefits, and environmental impacts.

The Application’s proposed portfolio of resources fails with regards to both (iii) and (iv) described above. First, the Application’s proposed portfolio does not include resources that

¹ Senate Bill 350, Section 454.51(a).

² Order Instituting Rulemaking to Develop an Electricity Integrated Resource Planning Framework and to Coordinate and Refine Long-Term Procurement Planning Requirements, R.16-02-007 (“IRP OIR”), at 13.

³ In the Concept Paper released on August 11, Commission Staff propose an approach whereby the Commission would use analytical tools to generate a multi-load serving entity optimal portfolio, which would then provide guidance to the utilities for the development of their own portfolios. The concept paper describes a number of advantages to this approach, including helping the state minimize the cost of achieving SB 350 goals through the creation of a least-cost, optimal statewide solution.

⁴ *See supra*, at 1.

provide renewable integration. While energy efficiency is a valuable resource, energy efficiency is typically not a flexible resource or capable of dispatch and so generally cannot provide renewable integration. In fact, energy efficiency measures may actually worsen renewable integration problems if they reduce energy use during hours of renewable over-generation.

Second, the Application provides no analysis that its proposed portfolio of resources is the most cost-effective option. As will be discussed below, other resources may more cost-effectively advance the State's greenhouse gas goals. Thus, including the procurement necessary to replace the Diablo Canyon capacity in the IRP process will ensure compliance with SB 350 and best help minimize the costs of achieving SB 350 goals.

Furthermore, since Diablo Canyon is not scheduled to be closed until 2025 and PG&E does not profess an emergency need to procure resources well in advance of that date, the IRP process will not delay the procurement of any necessary capacity. The Commission's proposed schedule for completing the IRP process is almost identical to the schedule PG&E proposes for resolving the Diablo Application. Under the current schedule proposed, IRPs submitted by the utilities would be approved by late 2017 or early 2018,⁵ which would allow PG&E to begin procuring resources by June 1, 2018 – the same date PG&E proposes for the start of its “Tranche 1” procurement in its Application.⁶ Even PG&E itself proposes that “[a]dditional procurement to replace Diablo Canyon, beyond that specified in the three procurement tranches of the Joint Proposal, will primarily be addressed through the CPUC's IRP process.”⁷

⁵ *CPUC Staff Concept Paper on Integrated Resource Planning*, CPUC Energy Division, at 7, 22 (August 11, 2016).

⁶ See Application of Pacific Gas and Electric Company for Approval of the Retirement of Diablo Canyon Power Plant, Implementation of the Joint Proposal, and Recovery of Associated Costs through Proposed Ratemaking Mechanisms, A.16-08-006, at 5 (Section 2.2.2).

⁷ PG&E Testimony in A.16-08-006, Chapter 3 “Replacement of Diablo Canyon Power Plant,” at 3-12, lines 27–29. See also A.16-08-006, Attachment A to Application “Joint Proposal,” at 3.

Thus, given the work already occurring in the IRP proceeding, the Commission and the public interest would be best served by determining Diablo Canyon replacement capacity through the IRP process. Furthermore, consolidating all procurement planning into the IRP process would reduce the burden on the Commission and on parties who would otherwise be forced to participate in nearly identical analytical processes in two separate long-term procurement planning proceedings.

III. PG&E FAILS TO SHOW ITS PROPOSED PROCUREMENT IS THE OPTIMAL SOLUTION TO MEET THE NEED

The resources PG&E has proposed to procure appear poorly suited to optimally meet its own identified need for “resources that are flexible and dispatchable, that can quickly ramp up and down to support integrating renewables onto the grid and meet the remaining utility bundled demand.”⁸ Instead, PG&E’s proposed procurement (i) violates the State’s Loading Order,⁹ and (ii) does not provide emissions reductions beyond the status quo reduction of 40% below 1990 levels by 2030 that is required by law following the passage of Senate Bill (SB) 32.

First, by excluding demand response from its procurement plan, PG&E violates the State’s Loading Order that supports additional demand response before procurement of RPS resources. Both demand response and energy storage are highly flexible zero-carbon resources that PG&E should have included in its procurement plan. Furthermore, both are capable of integrating renewable generation by increasing consumption during times of renewable over-generation. PG&E offers no explanation as to why these resources were excluded from its procurement plan.

⁸ PG&E Testimony in A.16-08-006, Chapter 2 “Diablo Canyon Power Plant Need Analysis,” at 2-17, lines 15–17.

⁹ *California Energy Action Plan, 2008 Update*, at 1 (February 2008).

Second, contrary to the emissions reduction benefit PG&E touts in its Application,¹⁰ PG&E's proposed procurement will not result in emissions reductions beyond what PG&E is already required to achieve by law. On September 8, Governor Brown signed SB 32, which requires the State to cut emissions at least 40 percent below 1990 levels by 2030. The determination of which resources should be pursued and in what quantities to meet this target is a challenging problem that requires significant analytical effort. Simply replacing Diablo Canyon with resources that are not flexible and do not have the potential to further reduce emissions would be a significant missed opportunity.

IV. PG&E PROPOSES AN UNPROVEN ENERGY EFFICIENCY PROGRAM THAT REQUIRES FURTHER VETTING AND DEVELOPMENT

PG&E proposes a new way of implementing energy efficiency that is unlike the Commission's prior and existing energy efficiency programs, that lacks a rigorous cost-effectiveness standard and independent program evaluation, and on which, importantly, PG&E shareholders stand to earn substantial revenues while collecting the costs from potential competitors, such as Net Energy Metering (NEM) customers. However, PG&E does not request to conduct a small pilot program to see if its proposal merits further consideration. Instead, PG&E has requested that the Commission approve \$1.3 billion in ratepayer funding for this completely new and unprecedented energy efficiency program, despite the fact that:

- 1) PG&E's proposed program would implement an unprecedented "RPS cost cap" for acceptance of a proposed energy efficiency program rather than a traditional and Commission-approved cost-effectiveness test;
- 2) PG&E's proposed program would allow project bidders to propose and implement their own Evaluation, Measurement and Verification (EM&V) Plans, which is contrary to the established practice of creating a firewall between program implementation and program evaluation to minimize conflicts of interest; and

¹⁰ PG&E Testimony in A.16-08-006, Chapter 1 "Policy and Overview," at 1-5, lines 1-10.

- 3) the Commission already has an established process for overseeing energy efficiency programs and it has been refining those programs for years.

Accordingly, PG&E's proposed energy efficiency program requires further vetting and development before the Commission approves the significant ratepayer funding needed to implement it. Furthermore, properly vetting and developing this new program may cause PG&E's procurement through its proposed energy efficiency program to be delayed beyond the date procurement might start by first using the IRP process to establish the amount of energy efficiency procurement necessary and then pursuing the actual procurement through the Commission's established energy efficiency programs.

V. IF THE COMMISSION AUTHORIZES PG&E TO PROCURE RESOURCES THROUGH THIS APPLICATION, THE COMMISSION SHOULD REQUIRE PG&E TO INCLUDE ALL PREFERRED RESOURCES AND ENERGY STORAGE IN ALL THREE TRANCHES OF ITS PROCUREMENT

PG&E's procurement plans fails to include all preferred resources and energy storage that might meet the state's policy goals at lower cost or provide higher total value to ratepayers, compared with the limited portfolio of resources PG&E has put forth in its Application. For example, behind-the-meter solar combined with energy storage can reduce electricity usage in a manner that looks identical to energy efficiency while providing other services – like dispatchable capacity – that energy efficiency cannot. Even PG&E recognizes that there is a need to compare the cost of energy efficiency with that of other zero-carbon resources – PG&E proposes an “RPS cost cap” for its energy efficiency solicitation.¹¹ However, a comparison that requires the theoretical projection of future RPS costs is unnecessary when actual costs could be ascertained by allowing all preferred resources to participate in a solicitation.

¹¹ See PG&E Testimony in A.16-08-006, Chapter 4 “Tranche #1 – Energy Efficiency,” at 4-5, lines 21–27 and at 4-9, lines 6–9.

Accordingly, as it did when directing Southern California Edison Company and San Diego Gas and Electric Company to procure capacity to replace the San Onofre Nuclear Generating Station¹² and to the extent that the Commission authorizes PG&E to procure any resources as a result of this Application, the Commission should require that PG&E conduct a solicitation open to all preferred resources and energy storage to achieve price discovery, compare bids from different technologies against one another, and select the resources that provide the best value to ratepayers. Otherwise, PG&E cannot know that energy efficiency is the most cost-effective option to provide emissions reductions and meet the State's other goals and objectives.

VI. SERVICE

All pleadings and other communications in connection with this proceeding should be served as follows:

Vidhya Prabhakaran
Emily P. Sangi
Davis Wright Tremain LLP
505 Montgomery Street, Suite 800
San Francisco, CA 94111-6533
Telephone: (415) 276-6500
Facsimile: (415) 276-6599
Email: vidhyaprabhakaran@dwt.com
Email: emilysangi@dwt.com

With a copy to:

Damon Franz
Director, Policy & Electricity Markets
SolarCity Corporation
444 De Haro Street
San Francisco, CA 94107
Telephone: (415) 636-9341
E-mail: dfranz@solarcity.com

Attorneys for SolarCity Corporation

VII. RULE 2.6(D) REQUIREMENTS

SolarCity has no objections regarding PG&E's statement on the proposed category, need for hearing, or issues to be considered. SolarCity recommends that PG&E's proposed procurement plan be considered as part of the IRP process and removed from this proceeding.

¹² See D. 14-03-004, mimeo at 141–144 (Ordering Paragraphs 1, 2, and 6).

Accordingly, as a scoping matter, the Assigned Commissioner should include in the schedule an initial Commission determination as to whether PG&E's proposed procurement plan should be considered as part of PG&E's IRP process before proceeding with the rest of the schedule for this Application.

VIII. CONCLUSION

SolarCity supports and applauds the closure of the Diablo Canyon nuclear plant. However, the Commission should reject PG&E's proposed procurement plan. Instead, the Commission should include the replacement of Diablo Canyon capacity in the IRP process to ensure that the optimal procurement solution is determined.

If the Commission chooses not to resolve what resources should replace Diablo Canyon in the IRP process, it should require PG&E to include all preferred resources and energy storage in all of PG&E's solicitations. By excluding resources that might provide higher ratepayer value, PG&E is almost certain to arrive at a sub-optimal result as compared with a more inclusive solicitation.

Respectfully submitted,

DAVIS WRIGHT TREMAINE LLP

/s/

Vidhya Prabhakaran

Emily P. Sangi

Davis Wright Tremaine LLP

505 Montgomery Street, Suite 800

San Francisco, CA 94111-6533

Tel. (415) 276-6500

Email: vidhyaprabhakaran@dwt.com

Email: emilysangi@dwt.com

September 15, 2016

Attorneys for SolarCity Corporation